

**In the Matter Of:**

MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

19-cv-265-NSR

---

**MARC H. FISHMAN**

*October 17, 2023*

---



**ESQUIRE**  
DEPOSITION SOLUTIONS

800.211.DEPO (3376)  
*EsquireSolutions.com*

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023

1

1  
2 UNITED STATES DISTRICT COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 Case No.: 19-cv-265-NSR

5 -----x  
6 MARC H. FISHMAN,

7 Plaintiff,

8 -against-

9 CITY OF NEW ROCHELLE, POLICE  
10 OFFICER LANE SCHLESINGER SHIELD  
11 #1058, JOSEPH F. SCHALLER, ROBERT  
12 GAZZOLA, IN HIS OFFICIAL CAPACITY  
13 AS POLICE COMMISSIONER OF THE  
CITY OF NEW ROCHELLE POLICE  
DEPARTMENT, SERGEANT MYRON  
JOSEPH SHIELD #18, & COUNTY OF  
WESTCHESTER,

14 Defendants.

15 -----x  
16

17 REMOTE DEPOSITION OF MARC H. FISHMAN

18 Tuesday, October 17, 2023

19

20

21

22 Reported by:

23 Amy A. Rivera, CSR, RPR, CLR

24 JOB NO. J10406555

25

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023

2

1

October 17, 2023

2

1:07 p.m.

3

4

5 REMOTE deposition of MARC H. FISHMAN,  
6 held pursuant to Notice, before Amy A. Rivera,  
7 Certified Shorthand Reporter, Registered  
8 Professional Reporter, Certified LiveNote Reporter,  
9 and a Notary Public.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023

3

1 MARC H. FISHMAN  
2 R E M O T E A P P E A R A N C E S:  
3 LAW OFFICE OF CANER DEMIRAYAK, ESQ., P.C.  
4 Attorney for Plaintiff  
5 One Pierrepont Plaza  
6 300 Cadman Plaza, 12th Floor  
7 Brooklyn, NY 11201  
8 BY: CANER DEMIRAYAK, ESQ.

9  
10 THE QUINN LAW FIRM  
11 Attorneys for Defendants  
12 399 Knollwood Road, Suite 220  
13 White Plains, NY 10603  
14 BY: LALIT K. LOOMBA, ESQ.

15  
16 ALSO PRESENT:  
17 Heidi Sarsony, Legal Video Specialist

18  
19  
20  
21  
22  
23  
24  
25

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
36

1 MARC H. FISHMAN

2 before?

3 A. I've heard of the American  
4 Disabilities Act, yes.5 Q. And do you have an understanding of  
6 the definition of a disabled person under that  
7 statute?

8 A. Yes.

9 Q. Okay. And I'm not asking you for  
10 legal advice or anything like that. I'm not  
11 asking you to be an attorney, but just in terms of  
12 your own personal understanding of that  
13 definition, can you please provide that?14 A. Sure. It is a disability covered  
15 under the ADA and the amended ADA of 2008, 2009,  
16 which is a major bodily impairment that affects a  
17 major bodily function rendering the person  
18 clinically disabled.19 Q. Were you born with any disabilities  
20 under the -- that qualify under the Americans With  
21 Disabilities Act?

22 A. Not that I'm aware of.

23 Q. Do you trace or do you claim to be  
24 your ADA disabilities to the car accidents that  
25 you had in 2013?

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
37

1 MARC H. FISHMAN

2 A. Yes

3 Q. And I understand that you claim

4 there's more than one disability, but could you

5 please list the disabilities that you claim that

6 qualify under the ADA that were caused by that --

7 by those 2013 car accidents that you were involved

8 in?

9           A.     Yes.   So I have ulnar, U-L-N-A-R,  
10      nerve entrapment on both elbows and arms that  
11      inhibit my ability to write, use my hand movement.  
12      My lower fingers are numb, a significant part of  
13      the day.   I have tinnitus which is ringing in the  
14      left ear, which impacts my hearing as well as  
15      balance and vertigo.

16 I have vertigo daily, particularly  
17 when I move my head, get up in the morning or  
18 walk.

19 I have occipital, O-C-C-I-P-I-T-A-L,  
20 neuralgia, N-E-U-R-A-L-G-I-A, which is severed  
21 nerves in the rear of my head, neck on the left  
22 side behind the ear, near the ear.

23 I have burning eyes as a result of  
24 that, and daily headache pain which affects my  
25 nerve system pain management.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
38

1 MARC H. FISHMAN  
2 I have post-concussion syndrome from a  
3 concussion sustained June 10, '13, in an accident  
4 where I was rear-ended and suffered whiplash by a  
5 van carrying six people. So I am in regular  
6 post-concussion therapy care.

7 I have peripheral neuropathy, which is  
8 permanent nerve injury from the car accident.

9 I have severe obstructive sleep apnea,  
10 which affects my ability to sleep.

11 I have temporal joint disorder or  
12 otherwise known as TMJ. I'm not going to try to  
13 spell temporal. We call it the acronym, TMJ, and  
14 basically TMJ prevents my ability to chew, speak,  
15 or more importantly to sleep, open my mouth at  
16 night, necessitating the Inspire implant, because  
17 the TMJ ball joints are damaged and arthritic and  
18 don't cause my mouth to open as someone as wide  
19 without that disability.

20 I have a mobility disability with my  
21 right foot from the hallux rigidis. I can't walk  
22 on my toe. It's very painful.

23 Q. That last one would have resulted from  
24 the 2021 car accident. Is that right?

25 A. Correct. But prior to that, I had

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
39

1 MARC H. FISHMAN  
2 what's called sesamoiditis, which is the sesamoid  
3 bones in the right foot getting damage from the  
4 2013 accident. So I had a right foot injury  
5 previous to that.

14 Q. Okay. Other than the ones you listed,  
15 are there any others?

16           A.     I think those are the main ones.  
17     There might be one or two others, but without  
18     reading the doctors' report, those are the major  
19     ones that I live with day-to-day. Obviously, the  
20     hernia, half of my groin is numb from the meshes,  
21     so I have numbness and nerve pain throughout my  
22     body.

23 Q. Sure.

24 And the hernia surgery was as a result  
25 of the 2013 car accident?

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
45

1 MARC H. FISHMAN

2 Q. How long have you been treating with

3 Dr. Michelle Maidenbergen?

4 A. I've been treating with Dr. Maidenbergen

5 since -- since the accident, 2013.

6 Q. Continuously since 2013?

7 A. Regularly, weekly, most weeks, yes.

8 Q. And what does the treatment consist

9 of?

10 A. I don't understand the question.

11 Q. Well, when you treat with

12 Dr. Maidenbergen, is it -- is that a talk therapy

13 situation or is she having you do exercises or is

14 it something else? Just describe it for me?

15 A. All three. We do cognitive breathing

16 exercises. We do executive function testing. We

17 do memory recall. We do some speech, traumatic

18 brain injury therapy. We do some role playing

19 with decision-making, post-concussion treatments,

20 various.

21 Q. When was the last time you had a

22 session with Dr. Maidenbergen?

23 A. Last Wednesday.

24 Q. When is your next one scheduled for?

25 A. Tomorrow.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
47

1 MARC H. FISHMAN  
2 Premium Therapy, yes, Joan Ryan, therapist;  
3 received cognitive therapy from the Center For  
4 Cognition, Dr. Brown, in Manhattan.

5 Q. Any others?

6                   A.        No, there was some cognitive therapy  
7        in the South Bronx. I forget the name where I  
8        attended.

9 Q. By the way, when you see your therapy  
10 with Dr. Maidenberg, is that a Zoom call where you  
11 can both see and hear each other?

12 A. Sometimes.

13 Q. Do you sometimes do it over the  
14 telephone?

15                   A.        Sometimes.    Mostly face time, Zoom,  
16    bad connection, telephone.

17 Q. Do you use realtime transcription when  
18 you have your cognitive therapy with  
19 Dr. Maidenberq?

20 A. Yes.

21 Q. At any time, have you had what's  
22 referred to as a disability aide assigned to you?

23 A. Yes.

24 Q. And that's Ms. Bolivar, right?

25 A. Several aides assigned to me.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
56

1 MARC H. FISHMAN  
2 you know, for the, you know, denied in person and  
3 virtual visits pending in the appellate courts New  
4 York.

5 0. Okay. Understood. Thank you.

6 We were talking about your disability  
7 aides, Efrim Cohen, you mentioned Joyce Fishman.  
8 Were there any others?

9 A. Yes.

10 Q. Who?

11 A. I had Isabelle Bolivar Court-appointed  
12 as the American With Disabilities Act aide.

13 Q. Which Court appointed her?

14 A. Family Court Judge Michelle Schauer in  
15 Yonkers. She moved to Yonkers and took the case  
16 with me.

17 Q. Is that how you first met Ms. Bolivar?

18 A. NO.

19 Q. When did you first meet her?

20 A. I met Ms. Bolívar in December 2015.

21 Q. When was she appointed by Judge  
22 Schauer?

23 A. I believe the appointment was in March  
24 of 2018 in Court order.

25 Q. Okay. Did you ever live with

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
62

1 MARC H. FISHMAN

2 for the reporter?

3 A. Sure, 3200 Netherland,  
4 N-E-T-H-E-R-LA-N-D, Avenue, apartment if F, Bronx,  
5 New York, 10463.

6 Q. Thank you.

7 And that's the Riverdale apartment  
8 that we've been talking about, correct?

9 A. Yes.

10 Q. Okay. And you -- when you woke up  
11 that morning, am I correct that you were under the  
12 impression that you were going to have a  
13 supervised visitation with your children?14 A. I received a text message from Ann  
15 Elliott confirming the visit.16 Q. And that's one of the text messages  
17 that you reviewed in preparation for your  
18 deposition, correct?

19 A. Yes.

20 Q. And what did the text message say?

21 A. In response to my --

22 Q. In sum or substance, you don't have  
23 to --24 A. To summarize, in response to my text  
25 to her at 5:08 p.m. on December 14th asking her to

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
63

1 MARC H. FISHMAN  
2 confirm the visit that it was Hanukkah, and I  
3 celebrate Hanukkah, I'd like to see my kids, and  
4 is my visit on for the, you know, two-week cycle,  
5 which was tomorrow, the 15th.

6 She wrote: Pick me up at 9 a.m. and,  
7 you know, I'll be outside for you to come get me  
8 for the visit.

9 Q. Okay. And so, am I correct that then  
10 you and -- Ms. Bolivar was living at your  
11 apartment in the Riverdale at the time?

12 A. Yes.

13 Q. And so the two of you woke up, got  
14 started, and drove into -- drove to pick up  
15 Ms. Elliott, the supervisor, correct?

16 A. Right. Ms. Bolivar drove. I was the  
17 passenger, yes, to pick up Ms. Elliott in Harlem,  
18 yes.

19 Q. Okay. And you picked her up at her  
20 house?

21 A. At her apartment building.

22 Q. Her apartment building, thank you.  
23 And had you done that before?

24 A. Yes.

25 Q. When you -- what time did you and

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
73

1 MARC H. FISHMAN

2 Q. By the way, did Jonah -- as Ann

3 Elliott was walking back towards the car, was he

4 still just playing in the driveway?

5 A. Yes, he had a -- there was another

6 male there who was older and taller, who he was

7 playing with, and there was a net, and there was

8 hockey equipment, and they were -- they were

9 shooting a hockey stick and playing in the

10 driveway.

11 Q. Did you ever see him run back to his  
12 house?

13                   A.        No, not while I was there. He didn't  
14 run back. He was playing with his friend the  
15 entire time we were there.

16 Q. So Ann comes back and says: The  
17 visit's been canceled, and tell me what happens  
18 after that?

19 A. I told Ann I wanted to go make a full  
20 report at the police station of a visitation  
21 violation and asked the cops if they could enforce  
22 my visitation order.

23 And Ms. Bolivar drove to the police  
24 station, I believe -- I think it's on Main Street  
25 or North Avenue. It's the building next to the

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
74

1 MARC H. FISHMAN

2 school administration for New Rochelle.

3 Q. What did Ann Elliott say, if anything,  
4 after you said you wanted to go to the police  
5 station?

6 A. I don't understand the question.

7 Q. Sure.

8 You said that you wanted to go to the  
9 police station to make a report, correct?

10 A. Yes.

11 Q. And did Ann Elliott hear you say that  
12 that's what you wanted to do?

13 A. Yes.

14 Q. And did she react in any way upon  
15 learning that that was your intention?

16 A. Yes, she was upset the visit was  
17 canceled. I prepaid her \$500 for a visit, so the  
18 money is not refundable, you know, and she saw I  
19 was -- I was upset, you know, two Saturdays a  
20 month with the kids and my confirmed visit earlier  
21 was -- was canceled, according to Ann Elliott,  
22 after she spoke with Jennifer.

23 So, you know, I was frustrated and  
24 upset. I wouldn't get to see my kids, who I love  
25 very much.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
75

1 MARC H. FISHMAN  
2 Q. Sure, I understand. I was more  
3 interested if Ann Elliott said anything that you  
4 recall?

5 A. I think she was going to tell the cops  
6 that --

7 Q. No. Mr. Fishman, sorry to cut you  
8 off. I don't think you understand my question.

9 A. Okay, I'm sorry.

10 Q. You're in the car, and the car is  
11 parked four houses, 200 feet away, let's say, from  
12 the Halcyon Terrace --

13 A. Yes.

14 Q. Ann comes back and announces that the  
15 visit is going to be canceled. You announce that  
16 you're going to go to the police station?

17 A. Yes.

18 Q. She hears that, does she say anything  
19 in response to you announcing that you were going  
20 to go to the police station?

21                   A.        I don't know.   I don't recall exactly  
22 what she said.

23 Q. Okay. That's fine. So, in fact, you  
24 drove to the police headquarters, right?

25 A. Ms. Bolivar did, yes. I was the

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
78

1 MARC H. FISHMAN

2 exchanged notes with me.

3 Q. When you say, she exchanged notes,  
4 what do you mean?5 A. I wrote that I wanted to make a police  
6 report of a Court-ordered visit violation and  
7 she -- I couldn't hear her, so she wrote on the  
8 piece of paper back that she was getting an  
9 officer to take my report.10 Q. Okay. So you're saying you actually  
11 literally took a piece of paper and wrote  
12 something out and handed it to her?13 A. There was like -- I wouldn't call it  
14 like a bank teller window, but I would call it  
15 some sort of receptacle to exchange, I would call  
16 it papers or I.D. underneath this bulletproof  
17 glass that had I think had some drilled window  
18 holes -- drilled holes through it, it was very  
19 dark and, yes, I told her I couldn't hear her, and  
20 that I was disabled. I kept on putting my ear to  
21 the glass, and then eventually put a note  
22 underneath, and she put the note back to me.

23 Q. What did it say, if you remember?

24 A. Hold on. I think, it said, "hold on,"  
25 awaiting an officer; meet you outside.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
79

1 MARC H. FISHMAN  
2 Q. Did you have any verbal exchange with  
3 her in front of the window?

4           A.     I was trying to. I was definitely  
5 making statements about violating my visitation  
6 order. I had a very difficult time trying to  
7 comprehend her words.

8 Q. Did you say that to her out loud?

9           A.       I believe I kept on saying, I'm  
10      disabled, and I can't hear you.  Can you speak  
11      louder?

12 Q. Was Ms. Elliott standing next to you  
13 when you were up at the window communicating with  
14 the -- and I'm just going to make a representation  
15 that that person is called a civilian service  
16 officer, CSO for short.

17 So when you were speaking with the  
18 CSO, was Ms. Elliott there?

19 A. Ms. Elliott and Ms. Bolivar were --  
20 were near me, yes.

21 Q. Did you -- did you hear Ms. Elliott  
22 say, while you were there that on the last visit,  
23 meaning December 1st of 2018 that the children had  
24 become upset and wanted to end the visit with you?

25 A. I don't recall her saying that, no.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
93

1 MARC H. FISHMAN  
2 could see the question-and-answer room in front of  
3 me, directly in front of me, the door to a room  
4 that had white walls.

5 Q. So the officers spoke with Ms. Elliott  
6 first, and when that happened, you were sitting in  
7 a chair, and you could see the door to the room  
8 where the officers and Ms. Elliott were speaking.

9 Is that accurate?

10 A. No. So what's accurate is that Ms.  
11 Elliott went into the room first. She motioned  
12 for all of us to go into the room and held open  
13 the door, allowed Ms. Elliott. He denied  
14 Ms. Bolivar. At which time, Ms. Bolivar  
15 identified herself as my aide for communication,  
16 Court-appointed, and that she had the papers with  
17 her for the orders, and I needed her help, and she  
18 needed to assist me with communication and  
19 interpret and show all the orders to Officer  
20 Schlesinger. That's what we requested when we  
21 were at the window.

22 Q. So when you said that the officers  
23 interviewed Ms. Elliott first. Is that correct?

24 A. No, no. They didn't enter the room  
25 with Ms. Elliott until they let me in the room and

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
99

1 MARC H. FISHMAN  
2 MR. LOOMBIA: Okay, all right. That's  
3 going to take too much time, and I don't  
4 want to waste your time; I'm sorry.

5 Q. So let me ask you this: Is it correct  
6 that the police spoke with Ms. Elliott first?

7 A. No, in the question-and-answer room, I  
8 think they only spoke to Ms. Elliott and I  
9 together.

10 Q. Oh, okay. So you were in the room  
11 together with Ms. Elliott?

12 A. Yes, I walked into the room after  
13 Officer Schlesinger denied Ms. Bolivar as my aide  
14 access to the room to assist me with full and  
15 effective communication, I went into the room  
16 afterwards.

17 Q. You went into the room with  
18 Ms. Elliott, and who else was in the room?

19 A. Officer Schlesinger and Myron Joseph,  
20 at different times and sometimes together.

21 Q. And how long were -- by the way, why  
22 don't you describe first what happened inside that  
23 room, like who spoke, who was asking the  
24 questions? And just give me a picture of what  
25 happened?

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
100

1 MARC H. FISHMAN  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

A. Right. I went to my medical bag and showed Officer Schlesinger my traumatic brain injury card, and asked for my aide to be brought in with me, and showed the card to him, and he said he wasn't interested.

Then I showed him my Inspire implant card, and started describing my symptoms, you know, this is a visitation order. It's over 20 pages. It's very tiny print, and I can't, you know, read that without assistance. I would need an aide or a note taker or some sort of, you know, transcription service.

At which time, you know, he walked back with Mr. -- what's his name -- Officer Joseph back out of the room, left me with Ann, and returned with a copy of this, you know, visitation order from 2018 and a copy of the order of protection with carve-out for supervised visits and asked me to authenticate it and asked Ann Elliott to authenticate it, if this was the document for visits. That was the governing document.

24 Q. And that's the 27-page order?

25 A. It's 20-some-odd pages. I don't

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
102

1 MARC H. FISHMAN  
2 Ms. Elliott was there as well, did you tell  
3 Officer Schlesinger that you suffered from a  
4 disability?  
5 A. Yes, and I showed him my two  
6 disability cards.  
7 Q. Okay. And when you said you suffered  
8 from a disability, which specific disability did  
9 you mention?  
10 A. I said, I suffer from a traumatic  
11 brain injury and encephaloneuralgia and have a  
12 difficulty with my burning eyes reading very small  
13 print, and that the print on the order he showed  
14 me was very, very tiny.  
15 So I started reading it, I get a  
16 headache, at which time, I started getting redder  
17 and redder, and got a headache, and had an  
18 encephaloneuralgia attack while sitting at the  
19 table.  
20 Q. And did you ask Officer Schlesinger  
21 for a specific accommodation?  
22 A. Multiple ones, yes.  
23 Q. Which specific accommodations did you  
24 request?  
25 A. I asked for my aide to come in to

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
104

1 MARC H. FISHMAN  
2 neurosurgeon, on the implant card, the second  
3 implant card was the Inspire with Dr. Boris  
4 Chernobilsky's number on it, and then the other  
5 one, my father.

6 And then I reiterated, I need  
7 Ms. Bolivar here to assist me with communication  
8 in her Court-appointed role as the visitation and  
9 Americans With Disabilities advocate and allow her  
10 to come in.

11 Q. Other than what you've listed, did you  
12 ask for any other accommodations?

13 A. I don't recall.

14 Q. If Ms. Bolivar had been in the room  
15 with you, how would she have -- how do you think  
16 she would have helped you?

17 A. Well, Ms. Bolivar would have brought  
18 the order, and she's appointed from March of 2018,  
19 and Ms. Bolivar would have been able to give a  
20 third perspective on what happened that day as the  
21 Court-appointed aide so that the officer didn't  
22 just have what he claimed was Jennifer's version,  
23 Ann Elliott's version, and my version.

24 She would also have been able to  
25 isolate the portions of the order of protection

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
107

1 MARC H. FISHMAN  
2 would -- if you had had access to them, that would  
3 have also helped you explain to Officer  
4 Schlesinger that, in fact, you had not violated  
5 any laws, correct?

6           A.     Well, it wasn't my car, Isabelle  
7 Bolivar's car.    But, yes, the documents she had in  
8 her purse and in her smart phone, and the paper  
9 documents would have shown that between 10 and 5,  
10 the 1st and 15th of every month, we have  
11 supervised visits.  There's no violation, as long  
12 as Ann Elliott is around and the visit wasn't  
13 canceled in writing beforehand.

14                           And that we didn't go on any property,  
15 and Ms. Bolivar could emphasize that. We didn't  
16 go on any property, and I hadn't communicated to  
17 Ms. Solomon, I haven't communicated with her  
18 directly since 2015.

19 Q. And I guess what I want to make sure I  
20 understand properly is that your position is if  
21 you had had access to your documents in the trunk,  
22 and if Ms. Bolivar had been there and was able to  
23 assist you in reading the orders, all of that  
24 could have helped you explain to Officer  
25 Schlesinger that you, in fact, had not violated

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
129

1 MARC H. FISHMAN  
2 between 2019 and 2020 that you used Ms. Elizabeth  
3 Bussian as the visitation supervisor?

4 A. Yes

5 Q. And she charged you a total of \$1,500  
6 for that?

A. No. I was charged over \$15,000 for it.

8 Q. I'm sorry. I did -- thank you.

9 You're absolutely correct; \$15,000.

10 And why did she stop in 2020? Was  
11 that because of Covid, I think you explained  
12 before?

13                   A.     She stopped in-person because of  
14 Covid, even though the visits were supposed to be  
15 in my home because of my disability, you know, and  
16 she had interpreted the order appointing her as a  
17 visitation voluntary for the kids. And so missed  
18 several visits until judge Capeci clarified after  
19 I filed papers that the visit were mandatory and  
20 my ex was subject to a contempt order, at which  
21 time, my ex filed with the kids to terminate  
22 visits, once she was put under threat of contempt,  
23 since the kids didn't show up again for virtual or  
24 in-person visits.

25 Q. So Ms. Bussian stopped because all

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
133

1 MARC H. FISHMAN  
2 A. All the transcript costs for county  
3 court, all the transcript costs for IDV court or  
4 Independent Domestic Violence court, all the  
5 transcript costs for these cases.

6 Q. \$50,000 for criminal defense legal  
7 fees, can you just identify the lawyers that have  
8 defended you in the criminal case?

9 A. I believe my lawyer is Caner  
10 Demirayak, who's on this call with us.

11 Q. Is that \$50,000 consist of  
12 Mr. Demirayak's fees alone or is there another  
13 lawyer that contributes to that number?

14 A. I believe Donna Drum was my ADA  
15 advocate. There was some legal fees for her. I  
16 believe there were legal fees to Caner.

17 Q. Have you actually paid \$50,000 to  
18 Mr. Demirayak or is that an amount that you owe  
19 him?

20 A. I'm not sure exactly what was paid. I  
21 have to check the paid checks and, you know, ACHs  
22 to see what I paid him and what I owe him.

23 Q. What about for Donna Drum, how much do  
24 you owe her?

25 A. I paid her thousands of dollars.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
134

1 MARC H. FISHMAN

2 Q. As you're sitting here with me

3 answering my questions, do you know how much?

4 A. I don't know the exact amount, either

5 one, I know both is thousands dollars.

6 Q. When you paid Donna Drum, was that out

7 of a checking account?

8 A. I think we paid Donna Drum via credit

9 card.

10 Q. And what about Mr. Demirayak?

11 A. I think Mr. Demiraya was paid via

12 check, via -- I think Zelle, and possibly some

13 other ACH method.

14 Q. Now, in L, paragraph L, it says that

15 you lost your real estate broker's license, but

16 before you said -- I got the impression that you

17 had not lost it. So could you please explain?

18 A. Yeah. As a result of this case, and

19 the misrepresentations made regarding the visit

20 and the order of protection as the Department of

21 State suspended my license and failed to renew it

22 from around, I believe, the fall of 2021 or the

23 fall of '20 I have to check, until August the

24 following year.

25 So I didn't have my license for 10

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
135

1 MARC H. FISHMAN  
2 months, until they saw that, you know, the 330s  
3 and the representations that I wasn't served with  
4 the order of protection, I was convicted of  
5 violating, I was actually in jail at the time when  
6 everything was typed up, but I hadn't gone on my  
7 ex-wife's property and hadn't communicated with  
8 her, and I believe they saw some of the federal  
9 papers and decided to reinstate

10 Q. So what's your best estimate as to  
11 when your license was suspended?

12 A. I'm not good with dates, sir, but I  
13 know it was October to August. It was not '22,  
14 '23. Was it '20 or '21? I think it's either '19  
15 to '20 or '20 to '21. I have to check. I'm  
16 really not good with numbers. It was a 10-month  
17 period in the middle there.

18 Q. And did that -- did the suspension of  
19 your broker's license impact your income in any  
20 way?

21 A. Yeah. I didn't have any income,  
22 couldn't have rental commissions or brokerage or  
23 sales or store or building sales, couldn't --  
24 couldn't -- couldn't earn with the violation of  
25 their licensure.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLE

October 17, 2023  
136

1 MARC H. FISHMAN

2 Q. And it says -- excuse me. It says:

3 valuation to be supplied under separate cover, do

4 you -- I have not received anything. Do you have

5 an estimate here as to what the monetary impact of

6 that 10-month suspension is?

7 A. I would say over \$150,000.

8 Q. And how did you calculate that?

9           A.     Well, because I work on, you know,  
10        five to six deals a month, and during that period  
11        of time, I couldn't work on any, or actually any I  
12        worked on, I wasn't able to be compensated for.  
13        So services were rendered free.

14 So your average rental deal is  
15 probably a 3 to \$4,000 commission, you know, sales  
16 of buildings, one building is between 100 and 200  
17 a year, you know, and then brokerage for stores,  
18 commercial spaces, I usually make \$150,000 gross.  
19 It varies if I co-broke it, and if my co-broker  
20 got a portion of that or not.

21 Q. And who's your co-broker?

22 A. I have my broker's license, if I  
23 co-broke with someone else. I wasn't able to do  
24 brokerage work for that 10-month period of time.  
25 That's what the lawsuit states.

MARC H. FISHMAN  
MARC H. FISHMAN -against- CITY OF NEW ROCHELLEOctober 17, 2023  
140

1 MARC H. FISHMAN  
2 say something to you that you felt was  
3 disrespecting you because of your claimed  
4 disabilities?  
5 A. Yes.  
6 Q. And do you know which officer said  
7 that?  
8 A. Officer Schlesinger.  
9 Q. And what did he say?  
10 A. Officer Schlesinger said in front of  
11 me to Isabelle Bolivar: Shame on you as a federal  
12 officer, you should know better than to transport  
13 someone to attempt to commit a crime.  
14 Q. And did Officer Schlesinger say  
15 anything else that you viewed as disrespectful of  
16 your disabilities?  
17 A. Yes.  
18 Q. What did he say?  
19 A. When I showed him my traumatic brain  
20 injury card, he said: I don't care. Put it away.  
21 I said: No. I want you to read the  
22 conditions and symptoms on the back and the  
23 accommodation I need.  
24 I don't need to see it. My boss says  
25 I don't need to see it.